

January 21, 1998



To: Secretary
Federal Communications Commission
cc: FCC Chairman and Commissioners

Re: Auctions of Radio Broadcast Licenses
Comparative Hearings/Construction Permits.
MM Docket # 97-234/GC Docket # 92-52
Gen Docket # 90-264

Dear Mr. Secretary:

The Commission has invited comments on plans to auction broadcast station construction permits versus finding a way to genuinely decide between competing applicants in the public interest. I encourage you to pursue a way to decide the "best qualified" applicant that does not assure the highest bidder will be the construction permit holder.

I have been a broadcast station licensee since 1972, generally serving smaller communities. I first applied in 1969 to build an "AM Daytime" station in a town of 1,500 people. There were three applicants who were more financially qualified and politically powerful. After three years we settled because my proposal was "first service with integrated management and local ownership". Twenty six years later I am still the licensee and that station has expanded to full-time plus an FM. Over those years we have participated in a number of applications and today we are the licensees of 18 stations. Several were bought underdeveloped and the facilities up-graded. Others were built as CPs or bought in the last several years after CP holders built stations through the tough economic environment and changing rules of the early 90s.

When I first applied in 1969 I was 28 years old and in love with this business. Today I'm 56 and still in love with it, but a little worn out by the battles and scars of the changing regulatory environment and the roller coaster of the business world. Any review you do in considering "auctions" should really review all changes that have effected radio regulation over 30 years, not just the last ten years. The ups and downs of the radio industry have really been a function of government's regulatory change (FCC/IRS/Congress). The industry's public service survived in spite of these changes. It prospers today though it almost died in the late 80s and early 90s.

In today's environment where the highest bidder will win, the individual applicant (Majority or minority) has no opportunity to win a CP. That will not impact the larger markets. There are few opportunities for new frequencies in larger communities at this time. However, there have always been (and still are) openings for new stations in smaller communities where individual operators can offer a local service and prosper. Historically, the individual operator in smaller communities has been the core of "localism" and the pulse of the community with legislators. The opportunity for that is effectively negated if the only factor is "the highest bid".

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Years ago the comparative process was flawed because competitive applicants could be "bought out" at a profit. When that was stopped the playing field leveled, though the FCC's process of letting hearings take years was/is unconscionable.

The current process with competitive applications allowing others to be bought out at a profit with "white knights" has brought that "flaw" back. Yes, it causes settlements, but not necessarily the best "local" community service or operator..

My recommendation is that the FCC should conduct competitive hearings to determine the best qualified applicant to provide service to the "local" area. The primary decisional factors should be:

- 1) Local ownership and management.
- 2) Local residency
- 3) Satisfactory technical proposal that will serve the most people.
- 4) Financial ability to operate one year.
- 5) Preference to the applicant who proposed the frequency
(if assigned by rulemaking proposal).
- 6) Preference to applicants by order of application.

If #1, #2, #3, #4, are equal, #5 and #6 will be defining. Hearings need not be long or involved as all can be objectively determined. The winner of a new CP should not be allowed to sell the facility at a profit until three years of operation has been completed. Settlements at a profit can not be allowed.

If this pattern is established with expeditious decision making, young people, females, and minorities will not be pre-cluded from broadcast station ownership just because another applicant can be "the highest bidder"..

The question for the FCC to decide is if "localism" is important in smaller communities throughout the country. It has been a cornerstone for awarding radio broadcast station licenses since 1934. We do have a changing world, but localized media and specialized media (for areas or demographic groups) is thriving throughout this country. There is no reason to believe that should not be continued when considering the award of new commercial radio broadcast station construction permits.

If you have any questions, please feel free to call.

Sincerely,



Bayard H. Walters
President